

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AMAZON.COM, INC., a Delaware corporation;
AMAZON.COM SERVICES LLC, a Delaware
limited liability company; and KONINKLIJKE
PHILIPS N.V., a Netherlands public limited
liability company,

Plaintiffs,

v.

HUMBERTO GONZALEZ, an individual;
CAROLINA MANTILLA HENAO, an
individual; JOSE DAVID GONZALEZ, an
individual; RICARDO ROJAS, an individual;
JONLER MOFFA, an individual; JUAN JOSE
MEZA, an individual; LUZ MARINA HENAO,
an individual; WORLD WIDE PRODUCTS
INC, a Florida corporation; CORABLADE INC,
a Florida corporation; CAFE RECOR
PRODUCTIONS, INC., a Florida corporation;
EASY SELLER INC, a Florida corporation;
ECOMMERCE DISTRIBUTOR, INC., a Florida
corporation; ION INTERNATIONAL
PRODUCTS INC, a Florida corporation;
VERENZA IMPORTS, INC, a Florida
corporation; AAA SAFEWAY
TRANSPORTATION, INC, a Florida
corporation; and DOES 1-10,

Defendants.

No. 2:22-cv-01671-RSL

STIPULATED CONSENT
MOTION FOR PRELIMINARY
INJUNCTION AND TO
TEMPORARILY STAY CASE
PENDING PARALLEL
CRIMINAL INVESTIGATION

WHEREAS, Plaintiffs Amazon.com, Inc., Amazon.com Services LLC (together,

“Amazon”), and Koninklijke Philips N.V. (“Philips”) (collectively, “Plaintiffs”) filed this

STIPULATED CONSENT MOTION FOR PRELIMINARY INJUNCTION
AND MOTION TO TEMPORARILY STAY CASE - 1
Case No. 2:22-cv-01671-RSL

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1 Action against Defendants Humberto Gonzalez, Carolina Mantilla Henao, Jose David
 2 Gonzalez, Ricardo Rojas, Jonler Moffa, Juan Jose Meza, Luz Marina Henao, World Wide
 3 Products Inc, Corablade Inc, Cafe Recors Productions, Inc., Easy Seller Inc, Ecommerce
 4 Distributor, Inc., Ion International Products Inc, Verenza Imports, Inc, AAA Safeway
 5 Transportation, Inc (collectively, “Defendants”);

6 WHEREAS, Plaintiffs have asserted the following claims against Defendants in the
 7 Complaint: (i) trademark counterfeiting and infringement under 15 U.S.C. § 1114; (ii) false
 8 designation of origin and false advertising under 15 U.S.C. § 1125(a); (iii) violation of the
 9 Washington Consumer Protection Act, RCW 19.86.010, et seq.; and (iv) breach of contract (the
 10 “Claims”);

11 WHEREAS, the Claims are based on Plaintiffs’ allegations in the Complaint that
 12 Defendants advertised, marketed, offered, and sold counterfeit Philips products in the
 13 Amazon.com store (“Amazon Store”) through various selling accounts,¹ using Philips’
 14 trademarks without authorization, to deceive customers about the authenticity and origin of the
 15 products and the products’ affiliation with Philips;

16 WHEREAS, Plaintiffs further allege that Defendants submitted to Amazon false
 17 invoices and other false documentation purportedly from Philips in an effort to claim their
 18 products were genuine and to avoid detection of their counterfeiting scheme;

19 WHEREAS, Plaintiffs’ Complaint seeks injunctive and monetary relief, including but
 20 not limited to (i) an accounting and disgorgement of three times Defendants’ profits; (ii)
 21 trebling of Plaintiffs’ actual damages, such as refunds Amazon has issued to customers who
 22 purchased Defendants’ alleged counterfeit products; (iii) statutory damages of up to \$2,000,000
 23 per counterfeit mark alleged in the Complaint for willful counterfeiting; and (iv) interest, costs,
 24 and Plaintiffs’ attorneys’ fees;

26 ¹ Plaintiffs allege that Defendants operated the following selling accounts: Corablade; Globamarket; Sobamart;
 27 Ecommerce Distributions; Ion International Products; Verenza Imports; World Wide Products; and Wholesale
 Suppliers USA (collectively, the “Selling Accounts”).

1 WHEREAS, Defendants are aware of their obligations under Florida's Uniform
2 Fraudulent Transfer Act, Fla. Stat. § 726.101 et seq., and Washington's Uniform Voidable
3 Transactions Act, RCWA 19.40.011 et seq., both pertaining to the dissipation of assets to avoid
4 obligations to present and future creditors;

5 WHEREAS, prior to filing the Complaint in this Action in November 2022, Plaintiffs
6 referred Defendants to Homeland Security Investigations ("HSI") in Florida on the basis of the
7 conduct alleged in the Complaint, as further detailed in Plaintiffs' *Ex Parte* Motion to
8 Temporarily Seal Documents and Case, and referred to the HSI investigation as a "parallel
9 criminal investigation" ("Motion to Seal") (Dkt. 4);

10 WHEREAS, the Court granted Plaintiffs' Motion to Seal and temporarily sealed and
11 stayed the Action for six months for the reasons detailed in the Court's December 1, 2022
12 Order Sealing and Staying Case (Dkt. 9);

13 WHEREAS, the Court extended the seal and stay of the Action for a further six months
14 (Dkt. 11);

15 WHEREAS, on November 8, 2023, Plaintiffs' filed a Status Update to request that the
16 Court unseal the Action and lift the stay, as law enforcement had taken overt action with
17 respect to Defendants (Dkt. 12);

18 WHEREAS, on November 9, 2023, the Court unsealed the Action and lifted the stay
19 (Dkt. 13);

20 WHEREAS, Defendants have been served with, and/or accepted service of, the
21 Complaint and their time to respond to the Complaint has been extended to March 7, 2024
22 (Dkt. 46);

23 WHEREAS, Plaintiffs and Defendants are aware that HSI's parallel criminal
24 investigation of Defendants, which is based upon the conduct alleged in the Complaint, is
25 active and ongoing, although no indictment has been filed against any of the Defendants;

26 WHEREAS, Defendants assert that their Fifth Amendment Rights are directly
27 implicated by HSI's parallel criminal investigations and have expressed to Plaintiffs that in

1 response to any discovery in this Action, as a result of the ongoing criminal investigation, they
2 will likely assert their Fifth Amendment rights against self-incrimination, and as a result, will
3 not produce documents or otherwise substantively respond to discovery requests in order to
4 protect those Constitutional Rights;

5 WHEREAS, Plaintiffs assert that they need discovery from Defendants in order to
6 understand the ultimate source and distribution network for the alleged counterfeit Philips
7 products and prevent further harm similar to the alleged conduct;

8 WHEREAS, the parallel criminal investigation may narrow or resolve some of the
9 factual issues in this civil proceeding;

10 WHEREAS Plaintiffs and Defendants are aware of their obligations to preserve
11 evidence related to the allegations in the Complaint or any defenses thereto;

12 WHEREAS, Plaintiffs and Defendants have agreed to temporarily stay the Action, as
13 set forth below, pending the parallel criminal investigation, but without prejudice to Plaintiffs'
14 ability to request that the stay be lifted;

15 WHEREAS, Plaintiffs and Defendants have further agreed that to protect the rights of
16 Plaintiffs during the pendency of the Action that Defendants will, without admitting liability,
17 voluntarily enter into a preliminary injunction as set forth below and without requirement of
18 any security under Federal Rule of Civil Procedure 65(c);

19 NOW THEREFORE, Plaintiffs and Defendants stipulate to entry of this Order and
20 Preliminary Injunction, and to its prompt entry subject to approval by the Court;

21 IT IS ORDERED AS FOLLOWS:

22 1. The Court has personal jurisdiction over each of the parties to this action. The
23 Court also has subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121 and 28
24 U.S.C. §§ 1331 and 1338(a).

25 2. On November 22, 2022, Plaintiffs filed a Complaint against Defendants
26 asserting the Claims.
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3. All of the Defendants have been served or have accepted service of the Complaint, and Defendants' response to the Complaint would have been due on March 7, 2024 (Dkt. 46);

4. Plaintiffs have established a *prima facie* case that Philips is the owner of the following registered trademarks (the "Philips Trademarks"), all of which are valid, unrevoked, and subsisting:

<u>Mark</u>	<u>Registration No. (International Classes)</u>
PHILIPS	3,864,315 (IC 8)
	5,038,342 (IC 8)
	3,087,005 (IC 8)
<i>NORELCO</i>	5,526,862 (IC 8)
NORELCO	3,087,004 (IC 8)
VTRACK	5,472,136 (IC 8)

5. Plaintiffs allege in the Complaint that Defendants advertised, marketed, offered, and sold counterfeit Philips products in the Amazon Store, using the Philips Trademarks, without authorization, to deceive customers about the authenticity and origin of their products and their products' affiliation with Philips. Plaintiffs further allege that Defendants submitted to

1 Amazon false invoices and other false documentation purportedly from Philips in an effort to
2 claim their products were genuine and to avoid detection of their counterfeit scheme.

3 6. Defendants are not admitting any of the allegations in the Complaint or
4 admitting any liability, civilly or criminally, by entering into this Stipulated Consent Motion.

5 7. Amazon blocked Defendants' Selling Accounts from the Amazon Store due to
6 Defendants' alleged conduct.

7 **Temporary Stay**

8 8. Defendants are under an active parallel criminal investigation by HSI.

9 9. Based on that pending investigation, and based on the consent of all parties and
10 for good cause shown, the Court temporarily stays this Action and all deadlines for 180 days,
11 unless otherwise ordered by the Court.

12 10. Defendants will promptly inform Plaintiffs and the Court in the event that
13 Defendants learn that the government's investigation into any Defendant has closed, or has
14 resulted in an indictment or other formal criminal charge.

15 11. The Parties must file a joint status report within 180 days of the entry of this
16 Order informing the Court as to whether the Action should remain stayed on the basis of HSI's
17 investigation, and updating the Court as to the status of that investigation.

18 12. Either Party may, at any time, revoke its or their consent to staying the Action
19 and file a motion requesting that the Court lift the stay, and a Party's consent to the stay sought
20 in this Motion shall not prejudice its efforts to lift the stay at a later date.

21 13. Any revocation of the stay set forth in this Order shall not have any effect on the
22 preliminary relief set forth below.

23 **Preliminary Injunction**

24 14. Based upon the allegations in the Complaint and Defendants' consent to the
25 requested preliminary relief, upon the entry of this Order, Defendants and their officers, agents,
26 representatives, servants, employees, successors, and assigns, and all others in active concert or
27

1 participation with Defendants are hereby restrained and enjoined from, pending termination of
2 this Action:

- 3 (i) selling products in Amazon's stores;
- 4 (ii) selling products to Amazon or any affiliate;
- 5 (iii) opening or attempting to open any Amazon selling accounts or vendor
6 accounts;
- 7 (iv) importing, manufacturing, producing, distributing, circulating, offering to
8 sell, or selling, advertising, promoting, or displaying any product or service
9 using any simulation, reproduction, counterfeit, copy, or colorable imitation
10 of the Philips Trademarks, Philips' brands or trademarks, or which
11 otherwise infringes or dilutes Philips intellectual property, on any platform
12 or in any medium;
- 13 (v) using any false designation of origin or false description or performing any
14 act which is likely to lead members of the trade or public to believe that any
15 service or product offered, distributed, or sold by Defendants is in any
16 manner associated or connected with Philips, or is sold, manufactured,
17 licensed, sponsored, approved, or authorized by Philips;
- 18 (vi) importing, manufacturing, producing, distributing, circulating, offer to sell,
19 or selling, advertising, promoting, or displaying any product manufactured,
20 licensed or distributed by Philips or purporting to be manufactured, licensed
21 or distributed by Philips; or
- 22 (vii) from transferring, discarding, destroying, altering, disposing of, concealing,
23 tampering with or in any manner secreting any and all (1) goods bearing
24 any copy or counterfeit of the Philips Trademarks or any markings
25 substantially indistinguishable therefrom; (2) packaging, wrappers,
26 containers, or promotional materials for goods bearing any copy or
27 counterfeit of the Philips Trademarks or any markings substantially

indistinguishable therefrom; (3) equipment and supplies used to manufacture, assemble, label, or package any goods bearing the Philips Trademarks, or any markings substantially indistinguishable therefrom; (4) business records, invoices, correspondence, text messages, emails, other electronic communications, photographs, bank records, cancelled checks, wire transfers, books of account, receipts or other documentation relating or referring in any manner to the manufacture, advertising, receiving, acquisition, importation, purchase, sale or offer for sale, or distribution of any goods or packaging bearing the Philips Trademarks, including all records identifying other persons involved in such activities, whether such information is stored in a written, electronic, or computerized form; and (viii) assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the activities referred to in subparagraphs (i) through (vii) above.


15. The Court finds that security pursuant to Federal Rule of Civil Procedure 65(c) is unnecessary in this case given Defendants' consent to this preliminary injunction.


16. Service of this Order on the Parties' respective counsel via ECF shall constitute valid service on each Party of this Order.

IT IS SO STIPULATED and CONSENTED TO this 7th day of March, 2024.

CHRISTIE LAW GROUP, PLLC

DAVIS WRIGHT TREMAINE LLP

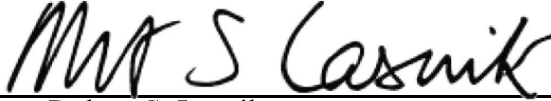
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2 **IT IS SO ORDERED.**

3 DATED THIS 8th day of March, 2024

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5 Hon. Robert S. Lasnik
6 UNITED STATES DISTRICT JUDGE
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